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PATENT
Atty Docket No. Cell 4.6

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Date: 10/7/96

Signature: Oliph A. Jr.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Serial No.: 08/234,145

Of: Kucherlapati et al.

Filed: April 28, 1994

For: Generation of Xenogeneic Antibodies

Group Art Unit: 1806

Examiner: Feissee, L.

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In a Restriction Requirement, mailed on March 8, 1996 (Paper 17), the Examiner maintained the Restriction Requirement imposed in Paper 10, mailed on September 21, 1995, which Applicant traversed in Paper 11, filed on November 21, 1995. Applicant provisionally elected the invention of Group IV (Claims 4-7 and 10-12, drawn to a xenogeneic immunoglobulin).

In Paper 17, the Examiner additionally imposed an election requirement, requiring Applicant to elect a single disclosed species. Applicant provisionally elects IL-8 with traverse. Traverse is made on the grounds that the specification clearly groups individual antigens according to the type and function of the antigen. *See* Page 22A, line 21 through Page 22B. In the specification, IL-8 is disclosed as an antigen that is:

associated with inflammation, autoimmunity and allergy include cell adhesion molecules, including selectins, integrins, members of the immunoglobulin superfamily and cytokines and chemokines such as L, E, P, selectins such as Lam-1; TNF-[alpha], IL-8 (NAP-1), MIP-1[alpha], MCP-1, MCP-3, RANTES, eosinophil major basic protein, eosinophil cationic protein, high and low affinity IgE Fc receptors (Fc[epsilon]RI and Fc[epsilon]RII), gp39, CD40L, CD40, CD5, CD5a, CD11a, CD11b, CD11c, CD14, CD18, various interleukins and their receptors such as IL-5, IL-4, IL-1, IL-8, IL-10, and IL-11; complement receptor 1 (CR1), ICAM-R, ICAM-1, bacterial superantigens, e.g., TSST-1, staphylococcal enterotoxin.

Page 22A, line 30 through Page 22B, line 5 (emphasis supplied).

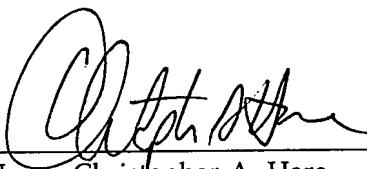
Accordingly, the Applicant respectfully submits that election of a single species is not required. Rather, Applicant should be permitted to elect the following species: An antigen associated with inflammation, autoimmunity and allergy. Such election mandates that each antigen within the species possesses similar type and function. While the Examiner noted that the original genus including all species was too broad (i.e., as including "distinct antigens which have unique structures and *unique functions*"), the proposed elected species includes antigens which are related by, and possess, similar function. The fact that the antigens may, and generally will, possess unique structures is of lesser importance in that what is important in the claims is the generation of heterologous immunoglobulins to any particular antigen and the group of antigens proposed to be elected is clearly related by function.

Entry of this Response and election is respectfully requested and Examination of the application on the merits is earnestly solicited. Should the Examiner have any questions with respect to the proposed election, the Examiner is encouraged to contact the undersigned at the number appearing below.

The Commissioner is authorized to charge any fees which may be required or credit any overpayment to Cell Genesys, Inc.'s Deposit Account 03-1184. A duplicate copy of this sheet is enclosed.

Respectfully Submitted,

Date: 10/7/96 By:


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